

EXHIBIT 3

DEPOSITION OF
MARK A. VERBRUGGE
HENDERSON V. UNITED STUDENT AID FUNDS
TAKEN ON
FEBRUARY 23, 2016



PHONE 855.525.3860 | 323.938.8750

Page 1		Page 3	
1	IN THE UNITED STATES DISTRICT SOUTHERN DISTRICT OF	1	I-N-D-E-X O-F E-X-H-I-B-I-T-S
2	CALIFORNIA	2	
3	CASE NO.: 3:13-cv-1845-L-BLM	3	
4	CLASS ACTION	4	PAGE
5	SHYRIAA HENDERSON, on Behalf)	5	1 - Subpoena 7
6	of Herself and all others)	6	2 - Guarantee Service Agreement, USAF 24
7	similarly situated,)	7	3 - Defaulted Collection Agreement 55
8	Plaintiff,)	8	4 - Navient 2014 Aqudit Guide 68
9	vs.)	9	5 - Sallie Mae 2014 Portfolio Mgmt 74
10	UNITED STUDENT AID FUNDS, INC.)	10	
11	D/B/A USA FUNDS,)	11	6 - Navient Portfolio Mgmt, 1-1-15 109
12	Defendant.)	12	7 - Audit Report 133
13	The 30(b)(6) deposition upon oral examination	13	8 - GRC Agreement 148
14	of MARK A. VERBRUGGE, a witness produced and sworn	14	
15	before me, Linda C. Callahan, a Court Reporter and	15	
16	Notary Public in and for the County of Hamilton,	16	
17	State of Indiana, taken on behalf of the Plaintiff	17	
18	in the offices of Alliance Court Reporting, 13295	18	
19	N. Illinois Street, Suite 218, Carmel, Hamilton	19	
20	County, Indiana, on the 23rd day of February,	20	
21	2016, commencing at 9:00 a.m., pursuant to the	21	
22	Federal Rules of Civil Procedure, and by Notice of	22	
23	the parties and subpoena of the witness as to time	23	
24	and place thereof.	24	
25	Reported by:	25	
	LINDA C. CALLAHAN		
	No. 16-39252		

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1	A-P-P-E-A-R-A-N-C-E-S	1	MARK A. VERBRUGGE,
2	FOR THE PLAINTIFF:	2	having first been duly sworn,
3	EDELSON PC	3	was examined and testified as follows:
4	BY: NICK LARRY, ESQ.	4	
5	350 North LaSalle Street	5	EXAMINATION
6	Suite 1300	6	
7	Chicago, IL 60654	7	BY MR. LARRY:
8	FOR THE DEFENDANT:	8	Q. Would you please state your full name for the
9	VEDDERPRICE	9	record.
10	BY: LISA M. SIMONETTI, ESQ.	10	A. Mark Allen Verbrugge.
11	1925 Century Park East	11	Q. Can you spell your last name, please.
12	Suite 1900	12	A. V as in Victor, E-R, B as in baker, R-U-G-G-E.
13	Los Angeles, CA 90067	13	Q. And Mr. Verbrugge, have you been deposed before?
14	and	14	A. No.
15	MATTHEW R. SHELDON, ESQ.	15	MR. LARRY: Okay. Well, I'll go over
16	NAVIENT SOLUTIONS, INC.	16	some ground rules so that we're on the same page
17	2001 Edmund Halley Drive	17	so that everything goes as smoothly as possible.
18	Reston, VA 20191	18	I'm sure you talked about this with the attorney
19	ALSO PRESENT:	19	for the defendant in this case, but I'm going to
20	Courtney Booth, Esq.	20	ask questions and you're going to answer them.
21		21	From time to time, Navient's attorney may object,
22		22	and in that event, you're going to need to wait
23		23	for the objection to finish, but generally
24		24	speaking, I'm going to ask you to answer at the
25		25	conclusion of the objection. The exception of

Page 21	Page 23
<p>1 Systems.</p> <p>2 Q. And what was the reason being?</p> <p>3 A. Again, performance.</p> <p>4 Q. Any others?</p> <p>5 A. Williams Professionals.</p> <p>6 Q. The reason?</p> <p>7 A. Performance.</p> <p>8 Q. Any others that you can think of?</p> <p>9 A. Those are all I can think of right now.</p> <p>10 Q. But there could be more out there?</p> <p>11 A. There could be, yes. You're talking about a</p> <p>12 pretty long timeframe.</p> <p>13 Q. Do you recall any -- do you recall whether there</p> <p>14 were any third-party collection agencies that were</p> <p>15 released or no longer utilized for reasons other</p> <p>16 than performance?</p> <p>17 A. It was all performance related.</p> <p>18 Q. Okay. So with regard to the loan taken out by the</p> <p>19 plaintiff in this matter, that was serviced by</p> <p>20 NSI; correct?</p> <p>21 A. Correct.</p> <p>22 Q. And do you know the time period when NSI began</p> <p>23 servicing that loan?</p> <p>24 A. I believe it was -- originally goes back as far as</p> <p>25 2000.</p>	<p>1 Q. So it's not only treated no longer as being a</p> <p>2 default, but as if it never happened?</p> <p>3 A. Correct.</p> <p>4 Q. And then the loan was subsequently defaulted on</p> <p>5 again; correct?</p> <p>6 A. Correct.</p> <p>7 Q. Do you know when that took place?</p> <p>8 A. I believe it was 2010.</p> <p>9 Q. And what is your basis for that understanding?</p> <p>10 A. Once again, off of the EAGLE system.</p> <p>11 Q. That's something that's reflected in the system?</p> <p>12 A. Correct.</p> <p>13 Q. And if you were to look back in the system now,</p> <p>14 would you be able to pull an exact date?</p> <p>15 A. Yes.</p> <p>16 Q. And did the system have a date for the original</p> <p>17 default?</p> <p>18 A. I'm sure it does. I don't recall it exactly, but</p> <p>19 yes, it would.</p> <p>20 Q. And would the system also show when the loan was</p> <p>21 sold to a rehabilitating creditor?</p> <p>22 A. Yes.</p> <p>23 Q. And after the subsequent default in 2010, the loan</p> <p>24 was purchased again by USA Funds; correct?</p> <p>25 A. Correct.</p>
Page 22	Page 24
<p>1 Q. The loan was defaulted on; correct?</p> <p>2 A. The loan was defaulted on.</p> <p>3 Q. And NSI continued to service the loan after it was</p> <p>4 defaulted on and purchased by USA Funds; correct?</p> <p>5 A. NSI, -- I can speak to when NSI Portfolio</p> <p>6 Management began working on the account, and that</p> <p>7 was in 2000, based upon my recollection of</p> <p>8 reviewing the account. The collection activities</p> <p>9 began and the loan was subsequently, I believe,</p> <p>10 rehabilitated in 2004 to late 2005.</p> <p>11 Q. What does rehabilitated mean in this context?</p> <p>12 A. What that means is, and the program still exists</p> <p>13 today under the FFELP world, if a borrower makes</p> <p>14 on-time monthly payments -- back then, I'm</p> <p>15 guessing it was 12 in 2004, it's now nine -- and</p> <p>16 they make, once again, their required number of</p> <p>17 and required amount within a 30-day time period,</p> <p>18 they actually rehabilitate their loan, whereby we</p> <p>19 sell their loan to a rehabilitating lender, a new</p> <p>20 lender, they purchase that loan, they expunge the</p> <p>21 credit bureau reporting as the default never</p> <p>22 existed, so it basically gives the borrower a</p> <p>23 brand new chance to, you know, move forward with</p> <p>24 that repayment of that debt without having any of</p> <p>25 the negatory comments on the credit bureau report.</p>	<p>1 Q. And that was reflected in the EAGLE records, as</p> <p>2 well?</p> <p>3 A. Yes.</p> <p>4 Q. And so in the process of servicing plaintiff's</p> <p>5 loan that had defaulted, NSI used third parties to</p> <p>6 actually make collection calls; correct?</p> <p>7 A. Correct.</p> <p>8 Q. Do you know which third-party collection agencies</p> <p>9 were used to place calls to plaintiff?</p> <p>10 A. It's -- I can tell off the system. Off the top of</p> <p>11 my head, I believe there was five different</p> <p>12 agencies that had sought -- that had worked this</p> <p>13 loan after 2010. I believe one was Pioneer Credit</p> <p>14 Recovery, I believe another was General Revenue</p> <p>15 Corporation, I believe another one was GC</p> <p>16 Services, I believe another one at that time was</p> <p>17 OSI/TSI now, and I believe there was another one,</p> <p>18 but I can't recall.</p> <p>19 Q. Does National Enterprise System sound right?</p> <p>20 A. It does.</p> <p>21 Q. I'm going to go ahead and give you another exhibit</p> <p>22 here.</p> <p>23 (Exhibit No. 2 was marked for</p> <p>24 identification.)</p> <p>25 Q. Have you seen the document marked as Exhibit 2</p>

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1 reports, all reports kept at NSI.
2 Q. Do you know if those reports are provided to USA
3 Funds?
4 A. They are -- upon asked. They are not a typical
5 report that's provided to USA Funds.
6 Q. Did you say upon ask?
7 A. Upon asked, yeah. If they ask for an inventory
8 report, we provide it to them.
9 Q. Have they done so?
10 A. Not to my knowledge. I mean, it wouldn't be a
11 far-fetched question.
12 Q. So I want to ask a little bit about the connection
13 between the audit score and the recommendations.
14 So USA Funds performs its audits on a wide variety
15 of criteria, I assume, that are being audited;
16 correct?
17 A. They have a specific audit guide.
18 Q. And that audit guide provides for an audit score
19 based on compliance with certain criteria; right?
20 A. Sure.
21 Q. So the audit score leads to a recommendation that
22 can either be suspension of placement to a given
23 vendor or a decrease in placements over a given
24 time period; right?
25 A. Correct.

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1 Q. Do you know whether the recommendation is
2 automatically generated as a result of the audit
3 score?
4 A. Can you rephrase the question?
5 Q. Sure. All I'm asking is say the audit score came
6 out at -- I'm just going to make this up -- 84 out
7 of a 100.
8 A. Uh-huh.
9 Q. Would 84 always mean a two-week suspension?
10 A. There's a scale, yes, that determines what the
11 recommendation typically fits under, yes.
12 Q. And that scale -- so then the recommendation comes
13 from USA Funds to NSI; correct?
14 A. Correct.
15 Q. Okay. And does NSI ever disregard that
16 recommendation?
17 A. Disregard is the wrong word.
18 Q. What is the right word?
19 A. I don't know if there is a right word, but we just
20 don't disregard. We evaluate and we take under
21 strong consideration the recommendations of the
22 audit and the audit score and the recommendation
23 of USA Funds. However, we have to evaluate
24 whether it's the right action to take.
25 Q. Are you aware --

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1 A. So -- pardon me.
2 Q. Are you aware of instances where NSI has chosen
3 not to take the recommended action?
4 A. I am aware of instances specifically. I can't
5 give you one off the top of my head, but I can
6 assure you that we have not taken 100 percent of
7 all recommendations.
8 Q. Do you have any idea how many recommendations
9 haven't been followed?
10 A. No.
11 Q. Do you have any idea what the percentage is?
12 A. It's -- it would be a guess.
13 MS. SIMONETTI: Don't guess.
14 A. I'm not sure -- I'm not here to guess.
15 Q. Would there be records that you can consult so you
16 wouldn't have to guess?
17 A. We could refer back to every audit and then look
18 at the placement report, yes.
19 Q. And does NSI maintain records of the USA Funds'
20 audit reports?
21 A. NSI, yes.
22 Q. I'm not asking whether you know whether USA Funds
23 maintains those or not, just whether NSI does. So
24 sticking with this document here, are you aware of
25 any time period between the October 1, 1999 date

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1 listed at the beginning and the present where this
2 agreement that's been marked as Exhibit 2 or any
3 of its subsequent restatements or members have not
4 been in place, has there ever been a lapse in that
5 contract?
6 A. Not that I am aware.
7 Q. Do you know how many accounts NSI, or as it was
8 previously known under Sallie Mae, have serviced
9 for USA Funds since August of 2009?
10 A. No, no.
11 Q. Do you have any sense of the order of magnitude?
12 A. I could -- I have dollar volume, I don't have
13 number of accounts.
14 Q. Okay. What is the dollar volume?
15 A. It currently sits about a little over \$6 billion,
16 and probably back in 2010, it exceeded that
17 number, so it's reduced, but I once again would be
18 guessing what the dollar volume was in August or
19 whatever of 2009.
20 Q. Don't guess on that.
21 A. I will not.
22 Q. So you said you weren't able to give a number for
23 number of accounts, but do you have any sense of
24 or is it -- whether it's millions of accounts?
25 A. You could do the math. You know, no, I'm not

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1 Q. What about USA Funds, are they informed of the
2 dialers used by NSI's vendors?
3 A. No, no.
4 Q. No, they aren't or no, you're not aware?
5 A. No, they are not informed.
6 Q. Do you know whether they're able to get that
7 information as part of their audits?
8 A. No, I'm not aware if they're able to get that.
9 Q. What are the differences -- does Navient itself
10 ever obtain telephone numbers or new telephone
11 numbers for consumers who have NSI loans being
12 serviced by NSI?
13 A. Yes.
14 Q. And how does NSI do that?
15 A. I go back to post-claims assistance, a borrower
16 could call in, and every time the borrower calls
17 in, we verify phone and address, if the caller
18 gives a new phone, we update the system.
19 Q. Are there any other methods you're aware of?
20 A. Could be mail.
21 Q. Any others?
22 A. It could be a call to the OCA, as we talked about
23 earlier.
24 Q. Any others?
25 A. Not that I'm aware of.

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1 Q. And when NSI receives an account from USA Funds,
2 that typically includes at least one telephone
3 number with it; correct?
4 A. Typically, yes.
5 Q. After NSI has begun servicing accounts, do you
6 know if USA Funds takes any action to obtain
7 additional telephone numbers?
8 A. No, they do not.
9 Q. What about NSI's vendors, do they take any
10 additional action outside of what's provided to
11 them upon origination of the account and outside
12 of what's obtained by NSI and updated in the
13 system, do the vendors take any action to obtain
14 additional telephone numbers for a consumer?
15 A. Yes.
16 Q. And what actions are those?
17 A. They skiptrace.
18 Q. Can you explain what you mean by skiptrace?
19 A. Information in the system isn't always the best
20 available; it may be old, it may have never been
21 good. They have to locate, so skiptracing is
22 another term for locating.
23 Q. We'll come back to skiptracing in a minute, but
24 are there any other methods that you're aware of
25 that NSI's collections vendors use to obtain

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1 borrower telephone numbers?
2 A. No.
3 Q. So within kind of the universe of skiptracing, do
4 you know whether USA's vendors use any third-party
5 database services to obtain additional telephone
6 numbers for a consumer?
7 A. I'm not aware of who they contract with to get
8 that information.
9 Q. Do you know whether they contract with anyone?
10 A. I assume some do.
11 Q. Do you know whether NSI's auditing process
12 identifies who if any those third parties are?
13 A. I don't believe it does.
14 Q. Within the meaning -- within skiptracing as you
15 used it, would that include a collections vendor
16 calling an individuals relatives, known
17 acquaintances, to attempt to obtain new or updated
18 contact information?
19 A. Yes, it would.
20 Q. And that is something that NSI's vendors do?
21 A. Yes, it is.
22 Q. Does NSI have to approve its vendors skiptracing
23 processes?
24 A. No.
25 Q. Are you aware of NSI ever requesting any changes

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1 to its vendors skiptracing policies?
2 A. No, I'm not aware.
3 Q. Does NSI place any restrictions on the use -- or
4 on -- yes, on the use of telephone numbers
5 obtained by skiptracing by its vendors?
6 A. They're -- yes, there are some restrictions.
7 Q. And what restrictions do you find?
8 A. Cease would be don't call the -- don't call the
9 phone number; death, deceased, don't call the
10 number. Those are a couple.
11 Q. Any others that you can think of?
12 A. Not sitting here right now, no.
13 Q. What about USA Funds; is USA Funds able to
14 request -- or is USA Funds able to place
15 restrictions on the use of numbers obtained by
16 skiptracing by NSI's collection vendors?
17 A. No.
18 Q. Do you know whether it has ever done so?
19 A. I don't believe it's ever been done.
20 Q. Are you familiar with the phrase number trapping?
21 A. I read it in the document earlier and I'm not
22 familiar with what it is.
23 Q. Are you familiar with any process used by
24 collections vendors to add telephone numbers to
25 the contact database by virtue of those numbers

<p style="text-align: right;">Page 129</p> <p>1 asking is if the placement file doesn't include</p> <p>2 whether any such consent has been granted, do you</p> <p>3 know whether NSI's auditing process checks to see</p> <p>4 if maybe the first call to an individual regarding</p> <p>5 an account is autodialed?</p> <p>6 A. They check to -- what is given is whether the</p> <p>7 phone is cell, home, or work, and so the review is</p> <p>8 to make sure cells are not autodialed.</p> <p>9 Q. And do you know how NSI determines whether a</p> <p>10 number is cell, home, or work?</p> <p>11 A. Some come off the promissory note and originally</p> <p>12 entered at the time by USA Funds into -- as the</p> <p>13 claim is purchased, others are retained via</p> <p>14 skiptracing by prior vendors. But consent does</p> <p>15 not transfer from agency to agency.</p> <p>16 Q. So when NSI receives a file from USA Funds, that</p> <p>17 file indicates whether each given telephone number</p> <p>18 is cell, home, work?</p> <p>19 A. Nowadays, it could; on the newer default, it does,</p> <p>20 yes.</p> <p>21 Q. It sounds like that wasn't always the case.</p> <p>22 A. Cell phones didn't always exist.</p> <p>23 Q. Since -- for the time period from August 8, 2009</p> <p>24 to the present, has it been the case that USA</p> <p>25 Funds' files as they come in, has identified what</p>	<p style="text-align: right;">Page 131</p> <p>1 vendor to do so?</p> <p>2 A. No, we have not.</p> <p>3 Q. Do you know whether USA Funds has ever requested a</p> <p>4 vendor to do so?</p> <p>5 A. They have not.</p> <p>6 Q. Do you know whether they ever directed a vendor to</p> <p>7 do so?</p> <p>8 A. They have never directed.</p> <p>9 MR. LARRY: We have been going for</p> <p>10 almost an hour now; we're about to go through a</p> <p>11 detailed and boring exhibit. If people want to</p> <p>12 break now, it would be a good time.</p> <p>13 MS. SIMONETTI: I have to take a</p> <p>14 really quick call at two, so it might be a little</p> <p>15 longer than five minutes.</p> <p>16 MR. LARRY: That's fine.</p> <p>17 Q. If you could go back to Exhibit No. 5 which was</p> <p>18 the 2014 audit guide.</p> <p>19 A. Got it.</p> <p>20 Q. Okay. If you'd turn to what's marked internally</p> <p>21 as page ten, and do you see above bold heading 6</p> <p>22 where there's H, "Skip activity"?</p> <p>23 A. Uh-huh.</p> <p>24 Q. Does that section mean that there are situations</p> <p>25 in which NSI requires it collections vendors to</p>
<p style="text-align: right;">Page 130</p> <p>1 type of telephone number?</p> <p>2 A. Not all the time.</p> <p>3 Q. In what circumstances won't it do that?</p> <p>4 A. It has to be notated on the front of the note</p> <p>5 whether it's a cell.</p> <p>6 Q. Have you ever heard of the concept of cell</p> <p>7 scrubbing?</p> <p>8 A. Sure.</p> <p>9 Q. And what is your understanding of what that is?</p> <p>10 A. Phone numbers are put through a variety of like --</p> <p>11 I guess call, for lack of a better -- scrubs to</p> <p>12 identify if it's a landline or a cell phone.</p> <p>13 Q. Sure, okay. I wasn't trying to trip you up, I</p> <p>14 just wanted to make sure we're on the same page.</p> <p>15 Do you know whether NSI employs a process, a cell</p> <p>16 phone scrubbing process, before sending files to</p> <p>17 its vendors?</p> <p>18 A. NSI does not.</p> <p>19 Q. Do you know whether NSI requires its vendors to do</p> <p>20 so?</p> <p>21 A. We do not require our vendors to do that.</p> <p>22 Q. Do you know whether NSI has ever directed its</p> <p>23 vendors to use cell phone scrubbing?</p> <p>24 A. No. I don't -- no, we've never directed that.</p> <p>25 Q. Do you know whether NSI has ever requested a</p>	<p style="text-align: right;">Page 132</p> <p>1 skiptrace to obtain new telephone numbers?</p> <p>2 A. Indeed, it does.</p> <p>3 Q. Do you know whether NSI's audits include a check</p> <p>4 to make sure that that's occurring?</p> <p>5 A. It does.</p> <p>6 Q. And do you know whether NSI has ever directed a</p> <p>7 vendor who has failed to comply with those</p> <p>8 provisions to skiptrace?</p> <p>9 A. If they fail to comply with as written, we</p> <p>10 obviously notate it as a finding and tell them to</p> <p>11 take the appropriate action to get back on track</p> <p>12 with the direction.</p> <p>13 Q. And that's something that's happened?</p> <p>14 A. I can't think of a specific example, but, yeah,</p> <p>15 I'm just going to go with -- I've been in this</p> <p>16 department for awhile, so yeah. I can't -- I</p> <p>17 don't have a specific date, timeframe, or agency</p> <p>18 in which this specific finding has been found.</p> <p>19 Q. Do you know whether USA Funds has ever requested</p> <p>20 that one of NSI's vendors increase its use of</p> <p>21 skiptracing?</p> <p>22 A. No. This is our policy.</p> <p>23 Q. Do you know whether USA Funds has ever generally</p> <p>24 requested that -- or has ever requested that NSI's</p> <p>25 vendors generally increase their use of</p>

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1 became a sole entity in 2000 when Sallie Mae
2 acquired USA Group or purchased USA Group
3 Guaranteed Services.
4 Q. What year did you say that was?
5 A. 2000.
6 Q. Do you see in that same paragraph where it says,
7 "Sallie Mae now seeks to update and conform all
8 its collection agency contracts"?
9 A. Uh-huh.
10 Q. Were you employed by Sallie Mae at that time?
11 A. I was.
12 Q. Do you recall that taking place?
13 A. I faintly recall the contracts being revised, yes.
14 Q. Do you know whether since that time, Sallie Mae or
15 now NSI has gone through a process of updating and
16 conforming all of its collection agency contracts
17 with a single effective date?
18 A. The contracts, I believe, with all vendors have
19 been updated as recently as 2015.
20 Q. So the individual contracts have been updated as
21 recently as 2015, but do you know if there's been
22 a vendor, a -- sorry, an NSI-wide update and
23 conformance of its contracts with all of its
24 vendors at the same time at any point since
25 July 1, 2004?

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1 MS. SIMONETTI: You mean on the USA
2 Funds portfolio?
3 MR. LARRY: We can limit it to that.
4 A. With the USA Funds portfolio? Okay, because I
5 understood your question to mean all vendors
6 across all relationships, even outside the --
7 Q. No. To the extent you understood it to mean that,
8 I'm sorry.
9 A. Okay, no, no -- apology accepted.
10 Q. No, just specifically to USA Funds.
11 A. Again, I believe I answered that. I am -- I
12 believe it was in 2015. I think it was mid 2015,
13 all contracts for vendors working on behalf of USA
14 Funds have been revised and subsequently signed by
15 the appropriate parties.
16 Q. So between that July 1, 2004 time period and the
17 mid 2015 time you just outlined, are you aware of
18 any other similar instances of conforming across
19 USA Funds' vendors?
20 A. I'm not aware of that. No, I'm not aware of a
21 uniformity revision of all contracts across all of
22 USA Funds.
23 Q. And do you recall that this was taking place as a
24 general idea to have contracts similar in form and
25 type and layout across all of the Navient or then

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1 Sallie Mae USA Funds' vendors?
2 A. I believe at the time -- I would -- can you repeat
3 that, please?
4 (The pending question was read back
5 by the reporter.)
6 MR. LARRY: That's a terrible
7 question. I'm just going to ask a new one.
8 Q. So was the general idea of these vendor-wide
9 changes to have similar contracts across NSI or
10 previously Sallie Mae's group of vendors?
11 A. Consistent wording, correct.
12 Q. Okay.
13 A. And if you look at the cover page, I think it
14 highlights one of the big changes.
15 Q. What happens when a vendor that NSI hires to
16 help -- to collect on a USA Funds loan is able to
17 successfully collect?
18 A. Neal, right?
19 Q. Nick.
20 A. Nick. I did that earlier, too, so I apologize.
21 We're tit for tat on the apologies, right? Nick,
22 I call you today, you agree to pay, how would you
23 like to make that payment? Okay. You know,
24 basically, we can make a credit card payment,
25 electronic fund transfer, how are you making that

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1 payment. The bottom line, I receive that -- as an
2 agency, they receive the payment today, so call it
3 \$50, they apply it to their system today, go back
4 with that effective date and trend date. It's
5 going to have an effective date and a trend date
6 on their system of today's date.
7 They are required to report that payment to me
8 within 24 hours or the next day, so they not only
9 remit that payment to me via electronic file to
10 say, hey, for Nick, we got a \$50 payment, this is
11 how we applied to principal, interest, and
12 collections costs, we take it, being that we're
13 the system of record, make sure they applied it
14 correctly, and then follow it up by wiring the
15 funds that next day, as well, so we not only have
16 notification of payment, but we also have the cash
17 in hand for that payment, as well.
18 Q. And then what does NSI do with that payment?
19 A. It automatically applies to the system, to EAGLE.
20 It will then allocate a vendor fee, because
21 they're paid for the services that they produce,
22 say it's 10 percent, make it a number, and the fee
23 tables are in here, it creates a fee table, let's
24 say in your case, it's 10 percent, \$5, make sure
25 that you either retained -- because some contracts

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1 Q. All right. Can I ask you to take a look at
2 Exhibit 1?
3 A. I put my glasses away. All right.
4 Q. And take a look at the section entitled
5 "Definitions" and look for definition No. 13.
6 A. Under --
7 Q. No, "Definitions".
8 A. Sorry.
9 Q. That's all right.
10 A. Got it.
11 Q. Do you agree with me that this reads "Telephone or
12 telephone dialing equipment means or refers to the
13 telecommunications equipment, other telemarketing
14 systems and/or computers or computer systems used
15 to make phone calls"; is that what it says?
16 A. That's what it says.
17 Q. Can you take a look under the subject matter
18 topics, I don't know the page number, put look for
19 topic No. 15.
20 A. All right.
21 Q. Got it?
22 A. Yep.
23 Q. Do you agree with me that this reads, "Telephone
24 dialing equipment used by third parties retained
25 by you, including third-party vendors hired by you

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1 to make phone calls to plaintiffs, as well as all
2 call recipients from August 8th, 2009 until the
3 present"; is that what it says?
4 A. That's what it says.
5 Q. And I omitted reference when I was reading that to
6 the misspelling of third, but I corrected that;
7 right?
8 A. Correct.
9 Q. Okay. Has it ever been part of NSI's relationship
10 with the vendors on USA's portfolio to obtain
11 information about telephone dialing equipment?
12 A. From a portfolio management's perspective, working
13 with third-party vendors to collect upon USA Funds
14 student loan debt, no.
15 Q. Has portfolio management ever had a business
16 reason to ask for information regarding telephone
17 dialing equipment used by vendors on the USA Funds
18 portfolio?
19 A. No.
20 Q. Are there vendors who provide the services to NSI
21 on USA Funds portfolio responsible for their own
22 telephone dialing equipment?
23 A. They are.
24 Q. So if you wanted to find out what telephone
25 dialing equipment was used at a certain point in

Page 163

1 time by a vendor on USA Funds portfolio loan,
2 would you call the vendor?
3 A. Yes, I would.
4 MS. SIMONETTI: Okay. Nothing
5 further.
6 MR. LARRY: I have no further
7 questions.
8 MS. SIMONETTI: All right. He'll
9 sign.
10 (A discussion was held off the
11 record.)
12 MR. LARRY: So we have just conferred
13 off the record, and the witness will have 30 days
14 to review, sign, and submit any errata forms
15 related to the transcript of this deposition.
16 I'll take a pdf.
17 MS. SIMONETTI: Agreed, 30 days from
18 today.
19 MS. SIMONETTI: I'll take a copy.
20 Can my office call you with the order?
21 MR. LARRY: And I'd like it in five
22 business days.
23
24
25

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1 STATE OF INDIANA)
2)SS:
3 COUNTY OF _____)
4
5
6 I, the undersigned, declare under
7 penalty of perjury that I have read the foregoing
8 transcript, and I have made any corrections,
9 additions, or deletions that I was desirous of
10 making; that the foregoing is a true and correct
11 transcript of my testimony contained therein.
12
13 Executed this ____ day of _____, 20____,
14 at:
15
16
17
18
19 MARK A. VERBRUGGE
20
21
22
23
24
25

Page 165

1 DEPONENT'S CHANGES OR CORRECTIONS

2 Note: If you are adding to your testimony, print

3 the exact words you want to add. If you are deleting

4 from your testimony, print the exact words you want

5 to delete. Specify with "Add" or "Delete" and sign

6 this form.

7

8 DEPOSITION OF: MARK A. VERBRUGGE

9 CASE: HENDERSON V. UNITED STUDENT AID FUNDS

10 DATE OF DEPOSITION: FEBRUARY 23, 2016

11

12 PAGE	13 LINE	14 CHANGE/ADD/DELETE
15	16	17
18	19	20
21	22	23
24	25	26

25 Deponent's Signature _____ Date _____

Page 166

1 PAGE	2 LINE	3 CHANGE/ADD/DELETE
4	5	6
7	8	9
10	11	12
13	14	15
16	17	18
19	20	21
22	23	24
25	26	27

25 Deponent's Signature _____ Date _____

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1 REPORTER'S CERTIFICATE

2

3 I, LINDA C. CALLAHAN, a Court Reporter and

4 Notary Public, certify:

5 That the foregoing proceedings were taken

6 before me at the time and place therein set forth,

7 at which time, the witness was put under oath by

8 me;

9 That the testimony of the witness, the

10 questions propounded, and all objections and

11 statements made at the time of the examination

12 were recorded stenographically by me and were

13 thereafter transcribed;

14 That the foregoing is a true and correct

15 transcript of my shorthand notes so taken.

16

17 I further certify that I am not a relative or

18 employee of any attorney of the parties, nor

19 financially interested in the action.

20

21 I declare under penalty of perjury under the

22 laws of Indiana that the foregoing is true and

23 correct.

24

25 Dated this 29th day of February, 2016.

LINDA C. CALLAHAN

My county of residence: Hamilton

My commission expires: 11/3/16

1 STATE OF INDIANA)
) SS:
2 COUNTY OF _____)
3
4
5

6 I, the undersigned, declare under
7 penalty of perjury that I have read the foregoing
8 transcript, and I have made any corrections,
9 additions, or deletions that I was desirous of
10 making; that the foregoing is a true and correct
11 transcript of my testimony contained therein.
12

13 Executed this 28 day of MARCH, 2016,
14 at:
15
16

17
18 

19 MARK A. VERBRUGGE
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DEPONENT'S CHANGES OR CORRECTIONS

Note: If you are adding to your testimony, print the exact words you want to add. If you are deleting from your testimony, print the exact words you want to delete. Specify with "Add" or "Delete" and sign this form.

DEPOSITION OF: MARK A. VERBRUGGE
CASE: HENDERSON V. UNITED STUDENT AID FUNDS
DATE OF DEPOSITION: FEBRUARY 23, 2016

PAGE	LINE	CHANGE/ADD/DELETE
<u>4</u>	<u>10</u>	<u>Change middle name Allen to Alan-</u>
<u>15</u>	<u>11</u>	<u>Change Agents to Agency</u>
<u>21</u>	<u>5</u>	<u>Change Williams to Windham.</u>
<u>41</u>	<u>11</u>	<u>Physical to Will</u>
<u>49</u>	<u>16</u>	<u>Venture to Vendor-</u>
<u>54</u>	<u>15</u>	<u>Wyndham to Windham-</u>
<u>96</u>	<u>15</u>	<u>in --- to NSI</u>
<u>110</u>	<u>20</u>	<u>Windom to Windham-</u>
<u>111</u>	<u>3</u>	<u>Windom to Windham.</u>
<u>152</u>	<u>4</u>	<u>Trend TO TRAN = TRANSACTION-</u>
<u>152</u>	<u>5</u>	<u>Trend TO TRAN</u>
_____	_____	_____

Deponent's Signature  Date 5/28/16

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3 I, LINDA C. CALLAHAN, a Court Reporter and
4 Notary Public, certify;

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7 at which time, the witness was put under oath by
8 me;

9 That the testimony of the witness, the
10 questions propounded, and all objections and
11 statements made at the time of the examination
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17 employee of any attorney of the parties, nor
18 financially interested in the action.

19 I declare under penalty of perjury under the
20 laws of Indiana that the foregoing is true and
21 correct.

22 Dated this 29th day of February, 2016.

23
24
25


26 LINDA C. CALLAHAN

27 My county of residence: Hamilton
28 My commission expires: 11/3/16